

RESOLUTION NO. 16-5

**A RESOLUTION TO ACQUIRE BY CONDEMNATION, IF NECESSARY,
CERTAIN PORTIONS OF THE FOLLOWING PARCEL IDENTIFICATION
NUMBERS: 28000400001, 2800010A26A, 280004000010, 280004000011,
28000500001, 28000500002, 28000500003, 28000500007, 2900010A006, 29000800016,
3100010B00A, 3100020A004, 2900010A001, 3100030A006, 3100030A11A,
310030A13A, 3100030A017, 3100030A019, 3100030A022, 3100040A006, AND
31000010E001 IN FEE SIMPLE TOGETHER WITH CERTAIN EASEMENTS
FOR THE DUPUY AVENUE MODERNIZATION
AND IMPROVEMENT PROJECT**

WHEREAS, the City of Colonial Heights, Virginia (the “City”) has undertaken to improve, widen, construct and maintain an existing public road, Dupuy Avenue (the “Road”), located in the City of Colonial Heights, Virginia between Route 1 (the Boulevard) and the western City boundary limits, such public undertaking being known as the Dupuy Avenue Modernization and Improvement Project (the “Project”); and

WHEREAS, Dupuy Avenue is an existing 2-lane road that serves a regional and neighborhood purpose. The Road provides a gateway to the City from Chesterfield County and also provides access to residential properties in the corridor. In 2011, average daily traffic was 13,000. Traffic volumes are anticipated to nearly double by 2036.

WHEREAS, the City desires to facilitate and enable the improvement, widening, construction and maintenance of the Road as a primary access route for the citizens of the City and as a vital transportation component within the City; and

WHEREAS, the purpose of the City’s acquisitions for this Project is to reduce congestion and improve safety for all users of Dupuy Avenue, regardless of age, ability or mode of transportation. Key elements of the improvements include: a center turn lane, paved shoulders, ADA-compliant sidewalks on both sides of Dupuy Avenue, on-street parking, upgraded street lighting, upgraded storm drainage system, and relocation of utility facilities, among other improvements (the “Road Improvements”); and

WHEREAS, the proposed Road Improvements are essential to provide congestion relief, to improve traffic circulation with alternative routing capabilities under normal and emergency situations for citizens, businesses and public safety vehicles, to provide safe turning egress/ingress from and to the Road and otherwise provide for the health, safety, peace, good order, comfort, convenience and welfare of the City; and

WHEREAS, the proposed Road Improvements are planned, designed and located in a manner which will be most compatible with the greatest public good, the safest engineering design and the least private property injury; and

WHEREAS, no more private property will be acquired than that which is necessary to achieve the stated public use;

WHEREAS, the Project design requires acquisition of certain right-of-way and easement interests for the construction of a roadway and other improvements and utility relocation required as a result of the proposed improvements; and

WHEREAS, the City has reviewed the acquisitions for purposes of complying with Section 1-219.1 of the Virginia Code (1950), as amended, and has certified that the acquisition is for the possession, ownership, occupation, and enjoyment of the property by the public, for the purposes of construction and maintenance of public facilities including public roads, drainage facilities, utility facilities and other related improvements; and

WHEREAS, it is now necessary to enter upon the properties to install the facilities and improvements prior to the completion of condemnation proceedings; and

WHEREAS, certain portions of the proposed Road Improvements will be situated across and through a certain number of privately owned parcels in the aforementioned area, including the following parcels:

- 1) Parcel Identification Number 28000400001; 410 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 007A)
- 2) Parcel Identification Number 2800010A26A; 412 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 007)
- 3) Parcel Identification Number 28000400011; 406 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 008A)
- 4) Parcel Identification Number 28000400010; 408 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 008)
- 5) Parcel Identification Number 28000500001; 404 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 009)
- 6) Parcel Identification Number 28000500002; 402, 402-A Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 010)
- 7) Parcel Identification Number 28000500003; 400 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 011)
- 8) Parcel Identification Number 28000500007; 310 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 015)
- 9) Parcel Identification Number 2900010A006; 212 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 019)

- 10) Parcel Identification Number 2900010A001; 204 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 022)
- 11) Parcel Identification Number 29000800016; 110 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 024)
- 12) Parcel Identification Number 3100010B00A; 419 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 027)
- 13) Parcel Identification Number 3100020A004, 403 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 029)
- 14) Parcel Identification Number 3100030A006; 401 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 030)
- 15) Parcel Identification Number 3100030A11A; 319 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 033)
- 16) Parcel Identification Number 3100030A13A, 315 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 034)
- 17) Parcel Identification Numbers 3100030A017, 3100030A019 and 3100030A022; 311 Dupuy Avenue, Colonial Heights, Virginia 23834 (Project Parcel 035)
- 18) Parcel Identification Number 3100040A006; 237 Battery Place, Colonial Heights, Virginia 23834 (Project Parcel 039)
- 19) Parcel Identification Number 3000010E001; 236 Battery Place, Colonial Heights, Virginia 23834 (Project Parcel 040)

and the specific land and property interests needed are more particularly described as follows:

Project Parcel 007A – Property of Lewis P. Waskey, IV:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0006 acre, more or less, or 24 square feet; one (1) five-foot wide perpetual joint use utility easement, consisting of 348 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 485 square feet; all as shown on a certain plat titled “Plat Showing Proposed R/W Acquisition And Easements On Parcel ID 28000400001,”

dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which is attached hereto.

Being the same real estate conveyed to Lewis P. Waskey, IV by deed from Waskey Construction, LLC, a Virginia limited liability company, dated February 21, 2008 and recorded February 22, 2008 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 286, at page 917.

Project Parcel 007 – Property of Lewis P. Waskey, IV:

One (1) variable width perpetual joint use utility easement, consisting of 105 square feet; and one (1) seven-foot \pm wide temporary construction easement, consisting of 99 square feet; all as shown on a certain plat titled "Plat Showing Proposed Easements On Parcel ID: 2800010A26A, City of Colonial Heights, Virginia," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which is attached hereto.

Being the same real estate conveyed to Lewis P. Waskey, IV by deed from Waskey Construction, LLC, a Virginia limited liability company, dated February 21, 2008 and recorded February 22, 2008 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 286, at page 917.

Project Parcel 008A – Property of Lewis P. Waskey, IV:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0009 acre, more or less, or 40 square feet; one (1) variable width exclusive perpetual joint use utility easement, consisting of 134 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 141 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 28000400011," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being the same real estate conveyed to Lewis P. Waskey, IV by deed from Jesse Brown, the Secretary of Veterans Affairs, an office of the United States of America, dated March 7, 1997 and recorded March 12, 1997 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 193, at page 98.

Project Parcel 008 – Property of Lewis P. Waskey, IV:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0026 acre, more or less, or 111 square feet; one (1) five-foot wide perpetual joint use utility easement, consisting of 401 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 561 square feet; all as shown on a certain plat titled “Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 280004000010,” dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which is attached hereto.

Being the same real estate conveyed to Lewis P. Waskey, IV by deed from Jesse Brown, the Secretary of Veterans Affairs, an office of the United States of America, dated March 7, 1997 and recorded March 12, 1997 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 193, at page 98.

Project Parcel 009 – Property of Swearingen Realty Company:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0031 acre, more or less, or 133 square feet; one (1) variable width perpetual joint use utility easement, consisting of 282 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 349 square feet; all as shown on a certain plat titled “Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 28000500001,” dated August 4, 2014, and prepared by nxl Engineers, Surveyors Construction Managers, a copy of which plat is attached hereto.

Being a portion of the same real estate conveyed to Swearingen Realty Company, a Virginia corporation, by deed from Ella A. Price, widow, dated January 20, 1970 and recorded June 10, 1970 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 36, at page 509.

Project Parcel 010 – Property of Swearingen Realty Company:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0045 acre, more or less, or 196 square feet; one (1) variable

width perpetual joint use utility easement, consisting of 283 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 348 square feet; all as shown on a certain plat titled "Plat Showing R/W Acquisition And Easements On Parcel ID: 28000500002," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a portion of the same real estate conveyed to Swearingen Realty Company, a Virginia corporation, by deed from Ella A. Price, widow, dated January 20, 1970 and recorded June 10, 1970 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 36, page 509.

Project Parcel 011 – Property of Swearingen Realty Company:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0056 acre, more or less, or 244 square feet; one (1) variable width perpetual joint use utility easement, consisting of 287 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 354 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel ID 28000500003," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a portion of the same real estate conveyed to Swearingen Realty Company, a Virginia corporation, by deed from Bobby R. Moring and Barbara J. Moring, husband and wife, dated September 2, 1970 and recorded September 11, 1970 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 37, page 273.

Project Parcel 015 – Property of Dunn Right Properties, LLC:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0081 acre, more or less, or 353 square feet; one (1) variable width perpetual joint use utility easement, consisting of 423 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 541 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 28000500007," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being the same real estate conveyed to Dunn Right Properties, LLC, a Virginia limited liability company, by deed from Robert Hutto, widower, dated March 18, 2003 and recorded March 28 2003 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 275, page 1516.

Project Parcel 019 – Property of Krista Lynn Eads, n/k/a Krista L. Devauld:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0051 acre, more or less, or 224 square feet; one (1) five-foot wide perpetual joint use utility easement, consisting of 250 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 350 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 2900010A006," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same real estate conveyed to Krista Lynn Eads by deed from Lester Claiborne Whitmore, devisee of the Estate of Annie Gray Whitmore, aka Gertrude Gray Whitmore, deceased, dated August 18, 1998 and recorded August 25, 1998 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia in Deed Book 213, page 514.

Project Parcel 022 – Property of G. Woody Stafford Enterprises, LLC:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0064 acre, more or less, or 277 square feet; one (1) variable width perpetual joint use utility easement, consisting of 325 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 301 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 2900010A001," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same property conveyed to G. Wood Stafford Enterprises, LLC, a Virginia limited liability company, by deed from George W. Stafford (a/k/a G. Woody Stafford) and Berkley B. Stafford, dated December 20, 2010 and recorded December 21, 2010 in the Clerk's

Office of the City of Colonial Heights, Virginia in Deed Book 289, page 6260.

Project Parcel 024 – Property of Dupuy Court Apartments, LLC:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0196 acre, more or less, or 855 square feet; one (1) variable width perpetual joint use utility easement, consisting of 1,028 square feet; and one (1) temporary construction easement, consisting of 595 square feet; all as shown on a certain plat titled “Plat Showing Right of Way & Easements On Parcel ID: 29000800016,” dated September 24, 2014, revised February 25, 2015, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same property conveyed to Dupuy Court Apartments, LLC, a Virginia limited liability company, by deed from Gilbert C. Martin, dated July 9, 2001, and recorded August 28, 2001 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 261, at page 118.

Project Parcel 027 – Property of Myung J. Lanham:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0168 acre, more or less, or 731 square feet; one (1) variable width perpetual joint use utility easement, consisting of 1,182 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 448 square feet; all as shown on a certain plat titled “Plat Showing Proposed R/W Acquisition and Easements On Parcel ID: 3100010B00A,” dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same property conveyed to Myung Lanham by deed of correction from Tonya C. Jenkins (erroneously shown as Tanya C. Jenkins) and Margaret A. Tatum releasing a life estate interest dated October 7, 2004, and recorded October 19, 2004 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia in Deed Book 278, page 9915; and conveyed to Myung Lanham by deed of bargain and sale from Tonya C. Jenkins, erroneously referred to as Tanya C. Jenkins, dated September 15, 2004 and recorded October 1, 2004 in the Clerk’s Office,

Circuit Court of the City of Colonial Heights, Virginia in Deed Book 278, page 8753.

Project Parcel 029 – Property of Ernest L. and Sharon A. Pettaway:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0083 acre, more or less, or 363 square feet; one (1) variable width perpetual joint use utility easement, consisting of 872 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 373 square feet; all as shown on a certain plat entitled “Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 3100020A004,” dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same real estate conveyed to Ernest L. Pettaway and Sharon A. Pettaway, husband and wife, as tenants by the entirety with the right of survivorship as at common law, by deed from Price Designs, Inc., a Virginia corporation, dated July 13, 2007 and recorded July 20, 2007 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 285, at page 959.

Project Parcel 030 – Property of David P. and Ann M. Hoopsick:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0062 acre, more or less, or 269 square feet; one (1) variable width perpetual joint use utility easement, consisting of 756 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 343 square feet; all as shown on a certain plat titled “Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 3100030A006,” dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same property conveyed to David P. Hoopsick and Ann M. Hoopsick, husband and wife, as tenants by the entireties with the right of survivorship as at common law, by deed from Oley A. Humphrey, Jr. and Carol F. Humphrey, dated August 17, 1987, and recorded August 27, 1987 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 108, page 534.

Project Parcel 033 – Property of Gary W. Palmore:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0098 acre, more or less, or 426 square feet; and one (1) variable width perpetual joint use utility easement, consisting of 881 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 420 square feet; all as shown on a certain plat titled “Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 3100030A11A,” dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a portion of the same property conveyed to Gary W. Palmore by deed from James O. Ferguson and Patricia P. Ferguson, husband and wife, dated January 17, 1990 and recorded January 31, 1990 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia in Deed Book 127, page 36.

Project Parcel 034 – Property of Deborah L. Edgerton:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0085 acre, more or less, or 372 square feet; one (1) variable width perpetual joint use utility easement, consisting of 936 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 420 square feet; all as shown on a certain plat entitled “Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 3100030A13A,” dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same real estate conveyed to Deborah L. Edgerton by deed from Rudolph P. Grammer and Virginia C. Grammer, husband and wife, dated November 8, 1999 and recorded November 15, 1999 in the Clerk’s Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 233, at page 140.

Project Parcel 035 – Property of Susan Ann Eanes:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia,

containing 0.0152 acre, more or less, or 661 square feet; one (1) variable width perpetual joint use utility easement, consisting of 2,481 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 1,317 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel IDs: 3100030A017, 3100030A019 and 3100030A022," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same property conveyed to Susan Ann Eanes by deed from Diane Eanes Crump and Linda E. Lipford and Susan Ann Eanes, dated February 8, 2008 and recorded February 14, 2008 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 286, page 436.

Project Parcel 039 – Property of Walter M. and Melanie R. Gerheart:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0209 acre, more or less, or 912 square feet; one (1) variable width perpetual joint use utility easement, consisting of 4,382 square feet; and one (1) seven-foot wide temporary construction easement, consisting of 1,826 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 3100040A006," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same property conveyed to Walter M. Gerheart and Melanie R. Gerheart, husband and wife, as tenants by the entireties with the right of survivorship as at common law, by deed from Carlton Maynard Spain and Beverly Jo Spain, his wife, and Sandra Spain Robertson Allen and Conry W. Allen, Jr., her husband, dated April 12, 1989 and recorded April 17, 1989 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 121, page 101.

Project Parcel 040 – Property of Constance Milz, aka Connie Milz:

All the fee simple interest in that certain piece, parcel or tract of land, together with the improvements thereon and appurtenances thereto belonging, lying and situate in the City of Colonial Heights, Virginia, containing 0.0112 acre, more or less, or 487 square feet; one (1) variable width perpetual joint use utility easement, consisting of 2,132 square feet; one (1) seven-foot wide temporary construction easement, consisting of

261 square feet; and one (1) five-foot wide temporary construction easement, consisting of 395 square feet; all as shown on a certain plat titled "Plat Showing Proposed R/W Acquisition And Easements On Parcel ID: 3000010E001," dated August 4, 2014, and prepared by nxl Engineers, Surveyors, Construction Managers, a copy of which plat is attached hereto.

Being a part of the same property conveyed to Constance Milz, aka Connie Milz, by deed from Michael Davis and Sandra Davis, husband and wife, dated July 14, 2006 and recorded July 31, 2006 in the Clerk's Office, Circuit Court of the City of Colonial Heights, Virginia, in Deed Book 282, page 9380.

WHEREAS, as of the date of this Resolution and despite making bona fide efforts to purchase the necessary property rights from the aforementioned Owners in full compliance with Section 25.1-204, Code of Virginia (1950), as amended, the City has been unable to come to agreements with such Owners as to the amount of compensation to be paid and other terms for voluntary purchases; and

WHEREAS, the City is authorized to acquire private property for public road use and other ancillary uses through the exercise of eminent domain by Sections 1-219.1, 15.2-1800 and 15.2-1901 *et seq.*, of the Code of Virginia (1950), as amended; and

WHEREAS, in conjunction with the construction of the Road it is also necessary to relocate certain utility easements held by public service companies; and

WHEREAS, the City is empowered by Sections 33.2-1014, 15.2-1901, 15.2-1901.1 and 15.2-1902, Code of Virginia (1950), as amended, and Chapter 18 of the City Charter, to acquire replacement easements for public utility companies, public service companies, public service corporations or cable television companies; and

WHEREAS, after the hereinafter recited public hearing on this matter, the City has determined that a public necessity exists for the fee simple acquisition of portions of the above described properties for the improvement, widening, construction and maintenance of the Street, together with certain easements ancillary to such road improvements, including but not limited to the relocation of certain utility easements, ingress/egress easements, and temporary construction easements, all of which are for the public purposes of providing a modern and complete road for public use, along with providing for the general health, safety, peace, good order, comfort, convenience, morals and welfare of the City; and

WHEREAS, a public hearing following proper legal notice was held, pursuant to Section 15.2-1903(B) of the Code of Virginia (1950), as amended, on March 8, 2016.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Colonial Heights, Virginia, that:

1. Portions of Project Parcels 007A, 007, 008A, 008, 009, 010, 011, 015, 019, 022, 024, 027, 029, 030, 033, 034, 035, 039, and 040 are to be acquired for construction and maintenance of public improvements to Dupuy Avenue and other associated incidental and ancillary uses, including, but not limited to slopes, ditches, drainage, temporary construction, utility relocation purposes, and landscaping and pedestrian pathways.
2. The City Council determines and declares these uses to constitute an authorized public undertaking pursuant to Section 15.2-1901.1 of the Code of Virginia (1950), as amended.
3. The City Council determines and declares that the acquisitions described in the Preamble of this Resolution and uses of the properties by the City as described herein will constitute a public use as defined by Section 1-219.1 of the Code of Virginia (1950), as amended, and that said public use is hereby approved.
4. The City Council determines and declares that the acquisition of the right-of-way and easements described in the preamble of this Resolution is necessary for a public use and an authorized public undertaking.
5. The City Council determines and declares that it is necessary to enter upon the properties and take possession of the aforesaid portions of and rights in the properties for the purposes described above to begin construction of the roadway and other improvements prior to the completion of condemnation proceedings in order to adhere to the project schedule. Therefore, the City Council declares its intent to so enter and take possession of the properties in accordance with Sections 15.2-1902, 15.2-1904 and 25.1-300 *et seq.*, of the Virginia Code (1950), as amended.
6. The City hereby elects to use the procedures set forth in Section 25.1-300 *et seq.*, as authorized by Sections 15.2-1902 and 15.2-1904 and the procedures and provisions of Sections 33.2-1007 through 33.2-1011, 33.2-1014 and 33.2-1017 of the Code of Virginia (1950), as amended, as authorized by Section 15.2-1902(4).
7. The City Council determines and declares that no more private property will be acquired than that which is necessary to achieve the stated public use.
8. The City Manager, the City Attorney, and the law firm of Randolph, Boyd, Cherry and Vaughan, may utilize the procedures set forth in Sections 15.2-1901 *et. seq.*, Title 25.1 and the applicable provisions of Title 33.2 of the Code of Virginia (1950), as amended, and/or the procedure set forth in Chapter 18 of the City Charter, as amended, to initiate and conduct condemnation proceedings.

9. The City Manager, the City Attorney, and the law firm of Randolph, Boyd, Cherry and Vaughan be, and they hereby are, authorized and directed to acquire the Property by condemnation if necessary and in the manner provided by Title 25.1, including, but not limited to, Chapter 3 (Section 25.1-300 et. seq.), and Title 33.2 to the extent made applicable to localities by Section 15.2-1902(4) of the Code of Virginia (1950), as amended.
10. In the event the above-described property has been conveyed to third-parties, the City Manager, the City Attorney, and the law firm of Randolph, Boyd, Cherry and Vaughan are hereby authorized to institute proceedings against the successors in title.
11. That this Resolution shall not preclude continued negotiations with the above recited owners or their successors in an effort to achieve settlement prior to or during the pendency of any condemnation proceedings.
12. This Resolution shall be effective upon passage.

Approved:

Mayor

Attest:

City Clerk

I certify that the above resolution was:

Adopted on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Betsy G. Luck., Councilwoman: _____.

The Honorable John E. Piotrowski, Councilman: _____.

The Honorable W. Joe Green, Jr., Councilman: _____.

The Honorable Diane H. Yates, Vice Mayor: _____.

The Honorable John T. Wood, Councilman: _____.

The Honorable Kenneth B. Frenier, Councilman: _____.

The Honorable T. Gregory Kochuba, Mayor: _____.

City Clerk

Approved as to form:

City Attorney